

REMARKS

As indicated in the Response previously filed in this matter, the Declaration of Inventor Yoram Gat ("Declaration") is now submitted.

Further Comments Regarding Claim Rejections under 35 U.S.C. §102

Gat, et al.

The Examiner rejected claims 1-9 under 35 U.S.C. 102(a) as being anticipated by "A Branch-and -Bound Technique for Nano-Structure Image Segmentation" of Gat et al., (*"Gat"*).

Gat is the publication of inventor Yoram Gat. As indicated, in the Response, the declaration of inventor Yoram Gat addresses the publication.

As indicated in the Declaration, inventor Yoram Gat was the author of *Gat*, and such publication describes portions of the invention described in the claims that were conceived and developed by this inventor.

The provisions of 35 U.S.C. §102(a) are as follows:

Section 102. Conditions for patentability; novelty and loss of right to patent

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or

b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, ...

The publication thus does not indicate prior knowledge or use by others in this country prior to the invention thereof by the applicant as the article was the product of one of the inventors. It is noted that the interpretation of “others” (as described in MPEP §2131(III)) indicates that the difference need only be different by one person to be by “others”. However, that is not situation in this case. The authorship of the article was by one of the inventors, as established by the declaration, and this is not indicative of a difference from the inventive entity in the knowledge and use of the invention. (The authorship of an article that included additional persons who are not inventors would raise different issues.)

If there are any questions regarding these issues, the Applicant requests that the Examiner contact the Applicant so that the matter can be resolved.

Applicant again requests the removal of *Gat* as a reference under the provisions of 35 U.S.C. § 102(a).

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (503) 439-8778 if there remains any issue with allowance of the case.

Request for an Extension of Time if Needed

The Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be needed. Please charge any fee to our Deposit Account No. 02-2666.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: April 24, 2008

/Mark C. Van Ness/

Mark C. Van Ness

Reg. No. 39,865

1279 Oakmead Parkway
Sunnyvale, CA 94085-4040
(503) 439-8778